

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.

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Attorneys for Defendants/Third-Party Plaintiffs
North Jersey Truck Center, Inc. and Moretran
Leasing Corp.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DARIANA LUPERON,

Plaintiff,

Civil Action No. 07-CIV-9630 (RJS)

vs.

ECF Case

NORTH JERSEY TRUCK CENTER, INC.
MORETRAN LEASING CORP., and
RANDY CAMPOSMATOS,

Defendants,

NORTH JERSEY TRUCK CENTER, INC.
MORETRAN LEASING CORP.,

Third-Party Plaintiff,

vs.

COLLIE ARNOLD and SMARTWAY TRANSPORT,
LLC,

Third-Party Defendant.

**ANSWER TO COMPLAINT,
CROSS-CLAIMS AND THIRD PARTY
COMPLAINT**

Defendants North Jersey Truck Center, Inc., (“North Jersey Truck”) and Moretran
Leasing Corp. (“Moretran”) by its undersigned counsel, hereby answer and assert separate
defenses to the Complaint as follows:

FIRST CAUSE OF ACTION

1. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and leave plaintiff to its proofs.

2. Defendants North Jersey Truck and Moretran admit that North Jersey Truck Center, Inc. is a New Jersey Corporation and maintains its principal place of business at 236 Route 46 East, Saddle Brook, New Jersey. The remaining allegations contained in paragraph 2 set forth a legal conclusion to which no response is required.

3. Defendants North Jersey Truck and Moretran admit that Moretran Leasing Corp. is a New Jersey Corporation and maintains its principal place of business at 236 Route 46 East, Saddle Brook, New Jersey. The remaining allegations contained in paragraph 3 set forth a legal conclusion to which no response is required.

4. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and leave plaintiff to its proofs.

5. The allegations set forth in paragraph 5 set forth a legal conclusion to which no response is required. To the extent a denial is required, defendants North Jersey Truck and Moretran deny the allegations.

6. The allegation set forth in paragraph 6 sets forth a legal conclusion to which no response is required. To the extent a denial is required, defendants North Jersey Truck and Moretran deny the allegations.

7. Defendants North Jersey Truck and Moretran deny the allegations contained in

paragraph 7.

8. Defendants North Jersey Truck and Moretran deny the allegations contained in paragraph 8.

9. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 and leave plaintiff to its proofs.

10. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 and leave plaintiff to its proofs.

11. Defendants North Jersey Truck and Moretran deny the allegations contained in paragraph 11.

12. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 and leave plaintiff to its proofs.

13. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 and leave plaintiff to its proofs.

14. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 and leave plaintiff to its proofs.

15. Defendants North Jersey Truck and Moretran lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 and leave plaintiff to its proofs.

16. Defendants North Jersey Truck and Moretran deny the allegations contained in paragraph 16 as they may pertain to it and are without knowledge or information sufficient to form a belief as to the truth of the allegations as they may pertain to the remaining parties.

17. Defendants North Jersey Truck and Moretran deny the allegations contained in paragraph 17.

18. Defendants North Jersey Truck and Moretran deny the allegations contained in paragraph 18.

WHEREFORE, Defendants North Jersey Truck Center, Inc. and Moretran Leasing Corp. demand judgment as follows:

- A. Dismissing the Complaint with prejudice;
- B. Costs of suit;
- C. Reasonable attorney's fees; and
- D. Such further relief as the Court deems just, equitable and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

The Complaint fails to state a cause of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE
(Lack of Subject Matter Jurisdiction)

The plaintiff's claims against these defendants are barred by lack of subject matter jurisdiction pursuant to F.R.C.P. 12(b)(1).

THIRD AFFIRMATIVE DEFENSE
(Laches, Waiver, Estoppel)

The plaintiff's claims against these Defendants are barred by the doctrines of laches,

waiver and/or estoppel.

FOURTH AFFIRMATIVE DEFENSE

(Contributory Negligence)

The plaintiff's claims against these Defendants are barred by plaintiff's negligence.

FIFTH AFFIRMATIVE DEFENSE

(Comparative Negligence)

The plaintiff's claims against these Defendants are barred or diminished by plaintiff's negligence.

SIXTH SEPARATE DEFENSE

(Third Party Conduct)

Any damage caused to the plaintiff was caused by independent individuals and entities over whom these Defendants had no control, nor right to control.

SEVENTH SEPARATE DEFENSE

(Failure to Join Indispensable Party)

Plaintiff's Complaint failed to include claims against and failed to join necessary and indispensable parties in this matter including, but not necessarily limited to, Collie Arnold, Smartway Transport, LLC and Edwin Suero.

Dated: December 26, 2007

By: /s/ John R. Edwards, Jr.
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CROSS-CLAIMS FOR CONTRIBUTION AND INDEMNIFICATION

Defendants, North Jersey Truck and Moretran, while denying any wrongdoing entitling plaintiff to a recovery, hereby assert cross-claims for contribution and indemnification, common law, statutory, contractual and otherwise jointly and severally against Defendant, Randy Camposmatos.

Dated: December 26, 2007

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**THIRD-PARTY COMPLAINT
(Contribution and Indemnification)**

Defendants/Third-Party Plaintiffs, North Jersey Truck and Moretran, by way of third Party Complaint against Third-Party Defendants, Collie Arnold and Smartway Transport, LLC, state:

1. Plaintiff, Dariana Luperon, has commenced an action against Defendants/Third-Party Plaintiffs, North Jersey Truck and Moretran, for the causes of action set forth in the Complaint. A copy of said Complaint is attached hereto as Exhibit “A” and incorporated by reference.

2. Third-Party Defendants, Collie Arnold and Smartway Transport, LLC, purchased the motor vehicle referenced in the complaint.

3. The motor vehicle was allegedly involved in a collision with a vehicle owned by Defendant, Randy Camposmatos.

4. As a result of the collision, Plaintiff brought the within action against Defendants/Third-Party Plaintiffs, North Jersey Truck and Moretran.

5. Defendants/Third-Party Plaintiffs, North Jersey Truck and Moretran, while denying any wrongdoing entitling plaintiff to a recovery hereby assert third-party claims for contribution and indemnification, common law, statutory, contractual and otherwise jointly and severally against Third-Party Defendants, Collie Arnold and Smartway Transport, LLC.

WHEREFORE, Defendants/Third-Party Plaintiffs, North Jersey Truck Center, Inc. and Moretran Leasing Corp., demand judgment against Third-Party Defendant, Collie Arnold and Smartway Transport, LLC, for all sums that may be adjudged against Defendant/Third-Party Plaintiffs, North Jersey Truck Center, Inc. and Moretran Leasing Corp., in favor of plaintiff,

plus costs, attorney fees and disbursements.

Dated: December 26, 2007

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MORETRAN LEASING CORP.,

Third-Party Plaintiff,

vs.

CERTIFICATION OF SERVICE

COLLIE ARNOLD,

Third-Party Defendant.

I hereby certify that the within Answer and Rule 7.1 Statement was electronically filed with the Clerk of the United States District Court Southern District of New York, and that true copies of the within papers were served upon the following via – Federal Express:

Hon. Richard J. Sullivan
United States District Court
Southern District of New York
Room 615
500 Pearl Street
New York, NY 10007

Kevin Concagh, P.C.
225 Broadway
New York, New York 10007

all on this 26th day of December, 2007.

By: /s/ John R. Edwards, Jr.
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